

FDSBank

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October 13, 2003

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 03-35

DELIVERED ELECTRONICALLY AND BY FACSIMILE

To Whom It May Concern:

This comment letter is filed on behalf of FDS Bank ("FDSB"), a subsidiary of Federated Department Stores, Inc. ("Federated"), in response to the Office of Thrift Supervision's request for comment on proposed guidance entitled Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice ("Guidance"). FDS Bank commends the Office of Thrift Supervision for its efforts in drafting the Guidance and appreciates the opportunity to provide additional comments.

Background

FDS Bank issues private label credit cards for use solely at merchants that are members of Federated's corporate family, which include Macy's, Bloomingdale's, Rich's-Macy's, Lazarus-Macy's, Goldsmith's-Macy's, Bon-Macy's and Burdines. FDSB also issues Visa cards.

Response Program and Customer Notification Comments

FDS Bank generally agrees with the proposed Guidance. The Bank agrees that financial institutions should first have the opportunity to assess each particular situation and have the flexibility to conduct an appropriate investigation. Only after this thorough, internal, investigation is complete, should the financial institution be required to notify customers as outlined in the Guidance.

However, the Bank urges the Agencies to reassess the customer notification options available to financial institutions that are outlined in the Guidance. The Guidance specifically states that customer notice should be "timely, clear, and conspicuous, and delivered in any manner that will ensure that the customer is likely to receive it." Specific contact options noted in the Guidance are by telephone, mail and electronic notice (for customers conducting business electronically). The Guidance does not take into consideration the potential volume of notices and large expense inherent in these limited notification options, particularly for institutions with large numbers of customers. This is especially troubling since it may be difficult to determine which customers to notify if the institution cannot identify precisely which customers are affected.

The Bank urges the Agencies to consider alternative options for mass customer notification. We recommend that the Agencies consider substitute notice to major media outlets and the institution's website where appropriate.

FDS Bank thanks the Office of Thrift Supervision for the opportunity to comment on this important Guidance. If we may be of assistance or to further explain our comments, please do not hesitate to contact Ellen R. Dugan at (513) 579-7870 or Douglas R. Bruser at (513) 573-8509.

Sincerely,

[signed]

Ellen R. Dugan
Secretary
Member of the Board
FDS Bank

[signed]

Douglas R. Bruser
Director of Legal Compliance
Compliance Officer
FDS Bank